IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8127 of 2004

Between:

A. Seshaiah S/oA.Polaiah

R/o CISE Quarter No. 8/1, C.I.S.F. Complex,

NFC., E.C.I.L. Post, Hyderabad-62

..... PETITIONER

AND

The Commandant, CISF Unit, NFC ECIL, Post, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondent in proposing to retire the petitioner from service on invalidation as per Rule 38 of CCS Pension) Rules, 1972 w.e.f. 23-5-2004 vide proc.No. E-38016/CISF/NFC/ ADM.III/04/414, dated 22-4-2004 which is contrary to the section 47 of Persons with Disabilities (Equal Opportunities protection of Rights and Full participation) Act, 1995 and Judgment of the Hon'ble Supreme Court of India in Kunal singh (s case reported in 2003 LAB.I.C. 1333 apart from violative of Article 14, 16 and 21 of the Constitution of India and consequently direct the respondent to continue the petitioner in service by utilising his services in Despatch Section or in any other post.

Counsel for the Petitioner:MR.J.M.NAIDU

Counsel for the Respondent No.: MR. A. RAJASHEKAR REDDY (SC FOR CG)

The Court made the following :

-

-

-

-

-

-

-

-

ORAL ORDER:

Heard both sides.

It is represented by the learned Standing Counsel appearing for the respondent that the question involved, especially as to the applicability of the provisions of the Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995, is no longer Res Integra. This Court in W.P.No.8776 of 2000 dated 4.11.2004 held that the said Act has no application to the respondent herein in view of the notification issued by the Central Government on 10.9.2002, exempting its applicability.

Following the same, nothing survives in the writ petition and the same is accordingly dismissed. No order as to costs.

29.12.2004

CVM

To,

1. The Commandant, CISF Unit, NFC ECIL, Post, Hyderabad
2. 2 CDs.